

SENATE BILL No. 516

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-31.

Synopsis: Utility infrastructure improvements. Amends provisions relating to recovery of infrastructure improvement costs by municipally owned and not-for-profit utilities.

Effective: July 1, 2015.

Charbonneau

January 14, 2015, read first time and referred to Committee on Utilities.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 516

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-31-1.3, AS ADDED BY P.L.209-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1.3. As used in this chapter, "adjustment amount"
4 means the amount proposed in a petition filed under section 8 of this
5 chapter to allow the adjustment of ~~a public~~ **an eligible** utility's basic
6 rates and charges to provide for recovery of infrastructure improvement
7 costs.
8 SECTION 2. IC 8-1-31-5, AS AMENDED BY P.L.209-2014,
9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 5. As used in this chapter, "eligible infrastructure
11 improvements" means new used and useful water or wastewater utility
12 plant projects that:
13 (1) do not increase revenues by connecting a distribution or
14 collection system to new customers;
15 (2) are in service; and
16 (3) were not included:



(A) in ~~the public~~ **an eligible** utility's rate base in its most recent general rate case; or

(B) **among extensions and replacements approved for recovery in base rates in its most recent general rate case.**

SECTION 3. IC 8-1-31-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.2. As used in this chapter, "eligible utility" means a:**

- (1) **public utility;**
- (2) **municipally owned utility; or**
- (3) **not-for-profit utility;**

that provides water or wastewater service.

SECTION 4. IC 8-1-31-5.5, AS ADDED BY P.L.209-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.5. As used in this chapter, "infrastructure improvement costs" means the following:**

- (1) **For a public utility that is eligible for and seeks recovery of a pretax return,** depreciation expenses and pretax return associated with eligible infrastructure improvements.
- (2) **For a municipally owned utility or a not-for-profit utility, the amount of additional eligible infrastructure improvements associated with extensions and replacements that are not currently subject to recovery in the utility's base rates.**

SECTION 5. IC 8-1-31-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.8. As used in this chapter, "municipal return" means revenues from rates and charges of a municipally owned or not-for-profit utility that are sufficient to provide adequate money for:**

- (1) **making extensions and replacements not otherwise provided for through depreciation; and**
- (2) **the payment of debt service on any eligible infrastructure improvements.**

SECTION 6. IC 8-1-31-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.9. As used in this chapter, "not-for-profit utility" has the meaning set forth in IC 8-1-2-125(a). The term includes a utility company owned, operated, or held in trust by a consolidated city.**

SECTION 7. IC 8-1-31-6, AS AMENDED BY P.L.209-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6. As used in this chapter, "pretax return" means**



the revenues necessary to:

- (1) produce net operating income equal to ~~the~~ a public utility's weighted cost of capital multiplied by the net original cost of eligible distribution or collection system improvements; and
- (2) pay state and federal income taxes applicable to such income.

SECTION 8. IC 8-1-31-7 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 7: As used in this chapter, "public utility" means a:

- (1) public utility (as defined in IC 8-1-2-1(a)); or
- (2) municipally owned utility (as defined in IC 8-1-2-1(h)).

SECTION 9. IC 8-1-31-8, AS AMENDED BY P.L.209-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (d), a **public utility providing water or wastewater service an eligible utility** may file with the commission a petition setting forth rate schedules establishing an amount that will allow the adjustment of the **public eligible** utility's basic rates and charges to provide for recovery of infrastructure improvement costs.

(b) The **public eligible** utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission.

(c) Publication of notice of the filing is not required.

(d) ~~A public~~ **An eligible** utility may not file a petition under this section in the same calendar year in which the **public eligible** utility has filed a request for a general increase in the basic rates and charges of the **public eligible** utility.

SECTION 10. IC 8-1-31-9, AS AMENDED BY P.L.209-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) When a petition is filed under section 8 of this chapter, the commission shall conduct a hearing.

(b) The office of the utility consumer counselor may examine information of the **public eligible** utility to confirm that the infrastructure improvements are in accordance with section 5 of this chapter, to confirm proper calculation of the adjustment amount proposed under section 8(a) of this chapter, and submit a report to the commission not later than thirty (30) days after the petition is filed.

(c) The commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(d) If the commission finds that a petition filed under section 8 of this chapter complies with the requirements of this chapter, the commission shall enter an order approving the petition.

SECTION 11. IC 8-1-31-10, AS AMENDED BY P.L.209-2014, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]: Sec. 10. (a) Except as provided in subsection (b), a **public an eligible** utility may, but is not required to, file a petition for a change in its initial adjustment amount not more often than one (1) time every twelve (12) months.

(b) Except as provided in section 15 of this chapter, a **public an eligible** utility may not file a petition described in subsection (a) in the same calendar year in which the **public eligible** utility has filed a request for a general increase in the basic rates and charges of the **public eligible** utility.

SECTION 12. IC 8-1-31-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.5. In determining an appropriate municipal return or the amount of allowable recovery of infrastructure improvement costs for a municipally owned or not-for-profit utility, the commission may consider the following factors:**

(1) Depreciation expense on eligible infrastructure improvement.

(2) Debt service on funds borrowed for eligible infrastructure improvements.

(3) Factors used in determining eligibility for recovery as extensions and replacements under IC 8-1.5-3-8(c)(5) or IC 8-1-2-125(d)(7).

(4) Other components that the commission considers appropriate.

SECTION 13. IC 8-1-31-13, AS AMENDED BY P.L.209-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. The commission may not approve a petition filed under section 8 or 10 of this chapter to the extent it would produce total adjustment revenues exceeding five percent (5%) of the **public eligible** utility's base revenue level approved by the commission in the **public eligible** utility's most recent general rate proceeding.

SECTION 14. IC 8-1-31-14, AS AMENDED BY P.L.209-2014, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. An adjustment amount proposed under section 8 of this chapter may be calculated based on a reasonable estimate of sales in the period in which the charge will be in effect. At the end of each twelve (12) month period following the date on which the commission initially approves an adjustment amount for a **public an eligible** utility following the **public eligible** utility's most recent general rate case, and using procedures approved by the commission, the **public eligible** utility shall reconcile the difference between adjustment



1 revenues and infrastructure improvement costs during that period and
2 recover or refund the difference, as appropriate, through additional
3 adjustments.

4 SECTION 15. IC 8-1-31-15, AS AMENDED BY P.L.209-2014,
5 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2015]: Sec. 15. ~~A public~~ **An eligible** utility for which the
7 commission has approved a petition under section 8 or 10 of this
8 chapter shall file revised rate schedules resetting the adjustment
9 amount if new basic rates and charges become effective for the ~~public~~
10 **eligible** utility following a commission order authorizing a general
11 increase in rates and charges that includes in the utility's rate base
12 eligible infrastructure improvements reflected in the adjustment
13 amount.

